

**REMARKS**

Applicant's representative wishes to thank the Examiner for the careful consideration given this case as well as the courteous interview of December 4, 2007. Claims 1-11, 13-32 and 34-41 are pending in the above identified application. Claims 1, 15, 25 and 30 have been amended. Claims 12 and 33 have been cancelled. Applicant has amended and cancelled claims solely for the purpose of advancing prosecution of the present case. Applicant specifically reserves the right to present claims of equal or greater scope than those originally presented in one or more continuation applications. Support for the amendments can be found at, for example, paragraphs [0069]-[0071] and Figures 15-17. No new matter has been added.

*Interview*

During the interview of December 4, 2007, Applicant's representative and Examiner Nguyen and SPE Woo discussed Applicant's claimed tissue spreading dissector and the ability of the tissue spreading dissector to cut tissue. The Examiner agreed to look favorably on claims amended to clarify that the tissue spreading dissector includes tissue spreaders or flap members having serrated outer edges because neither Kan et al. nor Brown et al. anticipate or make obvious a tissue spreading dissector having serrated outer edges. Additionally, the combination of Kan and Brown fails to render such a device obvious at least because Brown only provides serrated edges on interior jaw surfaces to facilitate grasping or improved grip while the serrated outer edges of the claimed device facilitate advancement through tissue. Accordingly, the independent claims (i.e., claims 1, 15 and 30) have been amended to further include serrated outer edges.

*35 U.S.C. § 102(b)*

Claims 1, 2, 9-11, 15, 19, 23, 26, 27, 30-33 and 36 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 6,497,651 to Kan et al. (hereinafter, "Kan"). Applicant respectfully disagrees.

As discussed in the interview, Kan fails to describe or even suggest a dissector or flap members having serrated edges on the outer surface of a tissue spreading dissector as recited in amended independent claims 1, 15 and 30. Accordingly, Kan fails to anticipate the pending

claims. Reconsideration and withdrawal of the Examiner's rejections under 35 U.S.C. § 102(b) is respectfully requested.

*35 U.S.C. § 103*

Claims 3-5 and 37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kan in view of U.S. Patent No. 5,569,291 to Privitera et al. (hereinafter, "Privitera"). The Examiner purportedly relies upon Privitera as providing a clamp mechanism on the proximal end of the housing and an abutment which would act as the claimed "stop member." However, Privitera fails to teach or fairly suggest a tissue spreading dissector having "serrated outer edges positioned to facilitate advancement of the tissue spreader through tissue" as described in the amended independent claims. Thus, Privitera fails to cure the deficiencies of Kan. The combination of Kan and Privitera fails to teach or suggest every element of amended independent claims 1 and 30, on which claims 3-5 and 35 depend, respectively, and therefore, fails to render the pending claims obvious. Accordingly, reconsideration and withdrawal of the Examiner's rejection is respectfully requested.

Claims 7, 21, 22, 34 and 39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kan in view of U.S. Patent No. 5,511,564 to Wilk. The Examiner purportedly relies upon Wilk as providing a first pair of arms pivotally mounted on an actuator arm and a second pair of arms coupled to the first pair that are operative to transition of the tissue spreader members from a neutral to an operative configuration, a lever as a tissue spreading mechanism, and a locking mechanism. However, Wilk fails to teach or fairly suggest a tissue spreading dissector having "serrated outer edges positioned to facilitate advancement of the tissue spreader through tissue" as described in the amended independent claims. Thus, Wilk fails to cure the deficiencies of Kan. Accordingly, the combination of Kan and Wilk fails to teach or suggest every element of amended independent claims 1, 15 and 30, on which claims 7, 21, 22, 34 and 39 depend, respectively, and therefore, fails to render the pending claims obvious. Accordingly, reconsideration and withdrawal of the Examiner's rejection is respectfully requested.

Claims 16, 17 and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kan in view of U.S. Patent No. 5,843,017 to Yoon (hereinafter, "Yoon '017") further in view of U.S. Patent No. 6,120,437 to Yoon (hereinafter, "Yoon '437"). The Examiner

purportedly relies upon Yoon '017 as providing a leaf spring that biases the tissue spreading members to the closed configuration as presented in claims 17 and 29 and Yoon '437 as providing a spine which maintains the shape of the expandable member as presented in claim 17. However, Yoon '017 and Yoon '437 fail to teach or fairly suggest a tissue spreading dissector having "serrated outer edges positioned to facilitate advancement of the tissue spreader through tissue" as described in the amended independent claims. Thus, Yoon '017 and Yoon '437 fail each to cure the deficiencies of Kan. Accordingly, the combination of Kan and Yoon '017 and/or Yoon '437 fails to teach or suggest every element of amended independent claims 15, on which claims 16, 17 and 29 depend and therefore, fails to render the pending claims obvious. Accordingly, reconsideration and withdrawal of the Examiner's rejection is respectfully requested.

Claims 8, 20 and 38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kan in view of U.S. Patent No. 5,354,302 to Ko. The Examiner purportedly relies upon Ko as teaching a channel for administering sufflative gas as presented in claims 8 and 38 and an elongated cylindrical sleeve that acts as an actuator as presented in claim 20. However, Ko fails to teach or fairly suggest a tissue spreading dissector having "serrated outer edges positioned to facilitate advancement of the tissue spreader through tissue" as described in the amended independent claims. Thus, Ko fails to cure the deficiencies of Kan. Accordingly, the combination of Kan and Ko fails to teach or suggest every element of amended independent claims 1, 15 and 30, on which claims 8, 20 and 38 depend, respectively, and therefore, fails to render the pending claims obvious. Accordingly, reconsideration and withdrawal of the Examiner's rejection is respectfully requested.

Claims 12 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kan in view of U.S. Patent No. 5,201,752 to Brown et al. (hereinafter, "Brown"). Claim 12 has been cancelled rendering the Examiner's rejection moot. With regard to claim 18, the Examiner purportedly relies upon Brown as teaching a flap member having a sharpened gripping surface as recited in claim 18. As described in the interview summary, Brown fails to teach or fairly suggest a tissue spreading dissector having "serrated outer edges positioned to facilitate advancement of the tissue spreader through tissue" as described in the amended independent

claims. Thus, Brown fails to cure the deficiencies of Kan. Accordingly, the combination of Kan and Brown fails to teach or suggest every element of amended independent claim 15, on which claim 18 depends, and therefore, fails to render the pending claims obvious. Accordingly, reconsideration and withdrawal of the Examiner's rejection is respectfully requested.

Claims 13 and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kan in view of U.S. Patent No. 6,436,119 to Erb et al. (hereinafter, "Erb"). The Examiner purportedly relies upon Erb as teaching a channel on the tissue spreading members through which a viewing device can be used as recited in claim 13 and flap members having increased thickness at their distal ends as recited in claim 28. However, Erb fails to teach or fairly suggest a tissue spreading dissector having "one or more serrated outer edges positioned to facilitate advancement of the tissue spreader through tissue" as described in the amended independent claims. Thus, Erb fails to cure the deficiencies of Kan. Accordingly, the combination of Kan and Erb fails to teach or suggest every element of amended independent claims 1 and 15, on which claims 13 and 28 depend, respectively, and therefore, fails to render the pending claims obvious. Accordingly, reconsideration and withdrawal of the Examiner's rejection is respectfully requested.

Claims 24 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kan in view of U.S. Patent No. 5,178,133 to Pena. The Examiner purportedly relies upon Pena as teaching a membrane-like sheath covering tissue flap members. However, Pena fails to teach or fairly suggest a tissue spreading dissector having "one or more serrated outer edges positioned to facilitate advancement of the tissue spreader through tissue" as described in the amended independent claims. Thus, Pena fails to cure the deficiencies of Kan. Accordingly, the combination of Kan and Pena fails to teach or suggest every element of amended independent claim 15, on which claims 24 and 25 depend, and therefore, fails to render the pending claims obvious. Accordingly, reconsideration and withdrawal of the Examiner's rejection is respectfully requested.

PATENT APPLICATION  
Application No. 10/530,703  
Attorney Docket No. 127272.00311

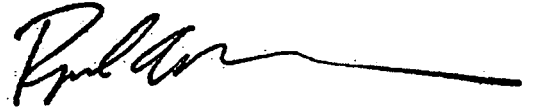
### CONCLUSION

Applicant respectfully submits that the pending claims are in condition for allowance and notice to such effect is respectfully requested. The Commissioner is hereby authorized to charge Deposit Account No. 50-0436 for any fees that may be due in connection with this response.

Should the Examiner have any questions or comments, or need any additional information from Applicant's attorney, he is invited to contact the undersigned at his convenience.

Respectfully submitted,

By:



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Date: April 25, 2008